

IN THE DISTRICT COURT OF THE UNITED STATES

For the Western District of New York

MARCH 2007 GRAND JURY
(Empaneled March 21, 2007)

06-CR-6127CJS

THE UNITED STATES OF AMERICA

-vs-

**THIRD
SUPERSEDING
INDICTMENT**

JOSEPH M. TYSON

Violations:

18 U.S.C. §2251(a)
18 U.S.C. §2252A(a) (5) (B)
18 U.S.C. §2241(c)
18 U.S.C. §2422(b)
18 U.S.C. §2423(a)
18 U.S.C. §2423(b)

COUNT 1

(Production Of Child Pornography)

The Grand Jury Further Charges That:

Between on or about July 18, 2004, and on or about September 28, 2005, in the Western District of New York, the defendant, JOSEPH M. TYSON, did knowingly employ and use a minor less than eighteen years old, Minor #1, to engage in sexually explicit

conduct, specifically, the lascivious exhibition of the genitals and the pubic area of said minor, for the purpose of producing visual depictions of such conduct, specifically digital images, with such visual depictions having been produced using materials that had been shipped and transported in interstate and foreign commerce.

All in violation of Title 18, United States Code, Section 2251(a).

COUNT 2

(Production Of Child Pornography)

The Grand Jury Further Charges That:

In or about November 2004, in the Western District of New York, and elsewhere, the defendant, JOSEPH M. TYSON, did knowingly employ and use a minor less than eighteen years old, Minor #2, to engage in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256, for the purpose of producing visual depictions of such conduct, specifically digital images, knowing that such visual depictions will be transported in interstate commerce, and with such visual depictions having been shipped and transported in interstate and foreign commerce.

All in violation of Title 18, United States Code, Section 2251(a).

COUNT 3

(Transportation of Minor)

The Grand Jury Further Charges That:

Between on or about August 12, 2005, and on or about August 19, 2005, in the Western District of New York, and elsewhere, the defendant, JOSEPH M. TYSON, did knowingly transport an individual, that is Minor #1, who was at that time under the age of 18 years, in interstate commerce from Rochester, New York, to the State of Virginia, with intent that such individual engage in sexual activity under such circumstances as would constitute a criminal offense by any person in New York State, namely, a violation of one or more of the following sections of the New York State Penal Law: Section 130.75 (Course of Sexual Conduct against a child in the First Degree); Section 130.55 (Sexual Abuse in the Third Degree); Section 130.40(2) (Sodomy in the Third Degree); and Section 130.25(2) (Rape in the Third Degree), and in the State of Virginia, namely, a violation of one or more of the following sections of the Annotated Code of Virginia: Section 18.2-67.3 (Aggravated sexual battery); and Section 18.2-370 (Taking indecent liberties with children).

All in violation of Title 18, United States Code, Section 2423(a).

COUNT 4

(Aggravated Sexual Abuse)

The Grand Jury Further Charges That:

Between on or about August 12, 2005, and on or about August 19, 2005, in the Western District of New York, and elsewhere, the defendant, JOSEPH M. TYSON, did cross a State line, that is the defendant traveled from the State of New York to the State of Virginia, with the intent to engage in a sexual act, that is, contact between the penis and the anus, contact between the mouth and the penis, and the penetration of the anal opening of another by a hand or finger with an intent to arouse and gratify the sexual desire of any person, with Minor #1, a person who at the time had not attained the age of 12 years.

All in violation of Title 18, United States Code, Section 2241(c).

COUNT 5

(Possession Of Child Pornography)

The Grand Jury Further Charges That:

On or about September 28, 2005, in the Western District of New York, the defendant, JOSEPH M. TYSON, did knowingly possess materials that contained images of child pornography, as defined

by Title 18, United States Code, Sections 2256(8)(A) and (B), that had been transported by computer in interstate and foreign commerce and that were produced using materials that had been mailed, shipped, and transported in interstate and foreign commerce, including by computer.

All in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

COUNT 6

(Use of Interstate Facility to Entice Minor)

The Grand Jury Charges That:

Beginning on or about September 16, 2005, and continuing until on or about September 27, 2005, in the Western District of New York and elsewhere, the defendant, JOSEPH M. TYSON, did, by causing electronic communications to be sent via the internet from the Western District of New York to an individual he believed was a 14 year old male in the State of New Hampshire, use a facility and means in interstate and foreign commerce to knowingly attempt to persuade, induce and entice an individual, he believed to be less than 18 years of age, to engage in sexual activity for which he could be charged with a criminal offense under the laws of the State of New Hampshire, namely, a violation

of the New Hampshire Revised Statutes, Criminal Code, Section 632-A:3 (Felonious Sexual Assault).

All in violation of Title 18, United States Code, Section 2422(b) .

COUNT 7

(Travel With Intent To Engage In Illicit Sexual Conduct)

The Grand Jury Further Charges That:

On or about September 28, 2005, in the Western District of New York and elsewhere, the defendant, JOSEPH M. TYSON, did knowingly travel in interstate commerce from the Western District of New York to the State of New Hampshire for the purpose of engaging in illicit sexual conduct, to wit, an attempt to engage in a sexual act with an individual he believed to be 14 years of

age.

All in violation of Title 18, United States Code, Section
2423(b) .

DATED: Rochester, New York, November 1, 2007.

TERRANCE P. FLYNN
United States Attorney
Western District of New York

By: s/ RICHARD A. RESNICK
Assistant U.S. Attorney

A TRUE BILL:

s/ Foreperson